

**THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION**

MICHAEL DAVID SILLS )  
and MARY SILLS, )  
Plaintiffs, )  
v. )  
SOUTHERN BAPTIST CONVENTION, )  
*et al.* )  
Defendants. )

) CASE NO. 3:23-cv-00478  
) JUDGE WILLIAM L. CAMPBELL, JR.  
Magistrate Judge Chip Frensley  
JURY TRIAL DEMANDED

**DEFENDANT GUIDEPOST SOLUTIONS LLC'S RESPONSE TO PLAINTIFFS'  
MOTION FOR LEAVE TO FILE UNDER SEAL**

Pursuant to Local Rule 5.03(d) and 7.01(a)(3), Guidepost Solutions LLC (“Guidepost”), submits the following response to Plaintiffs’ Motion for Leave to File Under Seal (“Motion for Leave”) (Doc. 323):

In response to the Motion for Summary Judgment filed by the Executive Committee of the Southern Baptist Convention (“EC”) and Rolland Slade (Doc. 310), Plaintiffs sought leave to file under seal multiple exhibits marked confidential or highly confidential, consistent with the parties’ Stipulated Protective Order. (Doc. 149.) Guidepost produced several of those exhibits in discovery and designated them as confidential or highly confidential.

Guidepost respectfully submits that the following exhibits designated by Guidepost in discovery as confidential or highly-confidential and filed by Plaintiffs in connection with their

response to the EC and Slade's Motion for Summary Judgment should remain filed under seal pursuant to Plaintiffs' Motion for Leave<sup>1</sup>:

- a. Exhibit 6 is Guidepost's Responses to Plaintiffs' First Set of Interrogatories that is designated as "highly confidential attorneys' eyes only" and contains confidential witness information. (Doc. 326.5.)
- b. Exhibits 25 and 26,<sup>2</sup> are drafts of the Report that are at issue in this matter that are designated as "confidential" and contain non-final information relating to sexual abuse witnesses and survivors. (Docs. 327.2-3.)
- c. Exhibit 29 includes comments provided to the fact portion of the Report that is designated as "confidential" and contains information relating to sexual abuse witnesses and survivors. (Doc. 327.4.)
- d. Exhibit 36 is an April 23, 2020 mediation statement involving Jennifer Lyell and the EC and is designated confidential. (Doc. 327.5.)

In making the confidential or highly-confidential attorneys' eyes only designations to the aforementioned documents exhibited to Plaintiffs' response, Guidepost was governed by Section 4.3 of the October 5, 2021 Engagement Letter between Guidepost and the SBC, which required Guidepost to:

Treat and maintain as confidential and private all information that has been or will be communicated or provided to Guidepost relating to any survivor or witness identity and will not reveal or utilize it in any way except with appropriate survivor approval; provided, however, that, subject to the provisions of Article 7 of this Agreement, Guidepost may reveal such information pursuant to the lawful, final judicial or administrative order.

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<sup>1</sup> Guidepost incorporates herein by reference the arguments set forth in the EC and Slade's Response to Plaintiffs' Motion for Leave. (Doc. 340.)

<sup>2</sup> Exhibit 26 is identical to Exhibit 25, each having the same bates numbers.

(See Doc. 253.4, §§ 4.3, 7.) Guidepost's contractual obligation is continuing in nature. *See also Shane Group v. Blue Cross Blue Shield of Michigan*, 825 F.3d 299, 308 (6<sup>th</sup> Cir. 2016) ("the privacy interest of innocent third parties should weigh heavily in a court's balancing equation"). As such, Exhibits 6, 25, and 29 should remain under seal. Further, Exhibit 36, which is a confidential mediation statement, is protected from disclosure pursuant to Fed. R. Evid. 408. *See also Goodyear Tire & Rubber Co., v. Chiles Power Supply, Inc.*, 332 F.3d 976, 980 (6<sup>th</sup> Cir 2003).

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing has been served through the Court's electronic filing system on the following:

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